

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Engineering Division
Honolulu, Hawaii 96813

OCTOBER 28, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

**CONTESTED CASE REGARDING:
APPLICATION FOR A DLNR DAM SAFETY CONSTRUCTION/ALTERATION PERMIT
PERMIT NO. 46 – HANAMAULU FIELD 21 RESERVOIR (KA-0135)
DAM ALTERATION AND REMOVAL, KAPAIA, KAUAI, HAWAII**

PETITIONER:

Likookalani Martin
P.O. Box 564
Anahola, HI 96703

DAM SAFETY PERMIT APPLICANT:

Mr. Ernest Y.W. Lau
Public Works Administrator
State of Hawaii
Department of Accounting and General Services
1151 Punchbowl Street, Room 426
Honolulu, HI 96813

LANDOWNER:

Russell Y. Tsuji, Administrator
State of Hawaii
Department of Land and Natural Resources
Land Division
1151 Punchbowl Street, Room 220
Honolulu, HI 96813
TMK: (4) 3-9-002:020

BACKGROUND:

The Hanamaulu Field 21 Reservoir is believed to have been constructed around 1920 by Lihue Plantation and used as a silt and sedimentation basin based on historic records of a nearby reservoir and ditch system. The reservoir is currently used for irrigation water and non-potable water to the Fern Grotto State Park, and managed by the East Kauai Water Users Cooperative, lessee from the State of Hawaii.

An application for the alteration and removal of the Hanamaulu Field 21 Reservoir was filed on September 10, 2010 by the State of Hawaii, Department of Accounting and General Services

(DAGS), on behalf of the owner, the State of Hawaii, Department of Land and Natural Resources (DLNR).

On May 27, 2011 the Board of Land and Natural Resources approved the Application for a DLNR Dam Safety Construction/Alteration Permit, Permit No. 46 – Hanamaulu Field 21 Reservoir (KA-0135), Dam Alteration and Removal, Kapaia, Kauai, Hawaii (Exhibit 1).

Oral requests were made at the May 27, 2011 Board meeting and a timely written petition requesting a contested case was received by the Department from Likookalani Martin (Exhibit 2)

RECEIVED PETITION

According to the petition, Likookalani Martin claims an interest in the dam safety construction/alteration permit as a lineal descendant, and as a religious and traditional and cultural practitioner. The petitioner also claims an interest in an environmental review of the permit under HRS Ch. 343.

ANALYSIS

Per prior case law, the court in State v. Pratt, 124 Hawaii 329, 243 P.3d 289 (Haw. App 2010) discussed what the Board needs to look for when asked to recognize native Hawaiian rights. The petitioner must meet three threshold requirements to prove he is entitled to constitutional protection: “(1) the [petitioner] must be a native Hawaiian; (2) whose claimed right is a constitutionally protected customary or traditional native Hawaiian practice, (3) which is conducted on undeveloped land.” Pratt, 124 Hawaii at 349, 243 P .3d at 309 (setting forth the State v. Hanapi test, 89 Hawaii 177, 970 P .2d 485 (1998)).

The analysis assumes that the petitioner meets the first two requirements. The property is not “undeveloped land” as the reservoir is an artificial barrier built for storing or conveying water through a built ditch system, and the petitioner does not meet the third requirement.

Therefore, the petitioner has neither legal property interest or claim of Native Hawaiian rights as protected under the state constitution in the dam safety construction/alteration permit to alter the Hanamaulu Field 21 Reservoir and a contested case is not required by law.

HAR § 1-1-29.1 allows the Board to deny a request for a contested case without a hearing under certain circumstances:

The board without a hearing may deny a request or petition or both for a contested case when it is clear as a matter of law that the request concerns a subject that is not within the adjudicatory jurisdiction of the board or when it is clear as a matter of law that the petitioner does not have a legal right, duty, or privilege entitling one to a contested case proceeding.

The Board has also determined that the project is exempt from the preparation of an environmental assessment pursuant to HRS Ch. 343 and HAR Ch. 11-200. An action challenging this decision may only be brought in a judicial proceeding under HRS § 343-7.

In preparation of this submittal, staff has consulted the Department of the Attorney General. The Department of the Attorney General supports the staff recommendation.

RECOMMENDATION

That the Board of Land and Natural Resources deny the request for a contested case in regards to Application for a DLNR Dam Safety Construction/Alteration Permit, Permit No. 46 – Hanamaulu Field 21 Reservoir (KA-0135), Dam Alteration and Removal, Kapaia, Kauai, Hawaii by Likookalani Martin.

Respectfully submitted,


for CARTY S. CHANG
Chief Engineer

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.
Chairperson

- Exhibit(s):
- 1 Application for a DLNR Dam Safety Construction/Alteration Permit, Permit No. 46 – Hanamaulu Field 21 Reservoir (KA-0135), Dam Alteration and Removal, Kapaia, Kauai, Hawaii
 - 2 Contested Case Petition by Likookalani Martin

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Engineering Division
Honolulu, Hawaii 96813

May 27, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

**APPLICATION FOR A DLNR DAM SAFETY CONSTRUCTION/ALTERATION PERMIT
PERMIT NO. 46 – HANAMAULU FIELD 21 RESERVOIR (KA-0135)
DAM ALTERATION AND REMOVAL, KAPAIA, KAUAI, HAWAII**

The Engineering Division hereby submits an application for your approval and authorization for the Chairperson and Department to stipulate conditions and issue a Dam Safety Construction/Alteration Permit for the subject application, "Alteration and removal of the HANAMAULU FIELD 21 RESERVOIR", pursuant to Chapter 179D Hawaii Revised Statutes.

APPLICANT:

Mr. Ernest Y.W. Lau
Public Works Administrator
State of Hawaii
Department of Accounting and General Services
1151 Punchbowl Street, Room 426
Honolulu, HI 96813

LANDOWNER:

Russell Y. Tsuji, Administrator
State of Hawaii
Department of Land and Natural Resources
Land Division
1151 Punchbowl Street, Room 220
Honolulu, HI 96813
TMK: (4) 3-9-002:020

Approved by the Board of
Land & Natural Resources
at the meeting held on

5/27/11

SUMMARY OF REQUEST:

Application for a Dam Safety Construction/Alteration Permit for the remediation of the Hanamaulu Field 21 Reservoir, Kapaia, Kauai, Hawaii, see Exhibit 1.

LOCATION: Kapaia, Kauai, Hawaii, TMK: (4) 3-9-002:020. See Exhibit 2.

BACKGROUND:

The Hanamaulu Field 21 Reservoir is believed to have been constructed around 1920 by Lihue Plantation and used as a silt and sedimentation basin based on historic records of a nearby reservoir and ditch system. The reservoir is currently used for irrigation water and non-potable water to the Fern Grotto State Park, and managed by the East Kauai Water Users Cooperative, lessee from the State of Hawaii.

ITEM L-1

EXHIBIT 1

The Hanamaulu Field 21 Reservoir Dam is approximately 19-ft. high, 370-ft. long. The dam crest is about 19-22.5 ft wide. The surface area of the reservoir at the dam crest is approximately 6.9 acres. The reservoir impounds a maximum of 57 ac-ft. The existing spillway is a concrete lined open channel with a bottom width of 25-ft, length of 46-ft and has 6.5-ft high walls. The exit channel discharges free flow over a 200-ft high cliff to the Fern Grotto State Park. The end of the concrete slab at the end of the spillway channel was damaged during the March 2006 rain events and has since been fixed. The dam has an outlet works with a concrete intake box that leads to a tunnel through the mountain to a Department of Hawaiian Home Lands property ditch system. The dam has a size classification of "small" and hazard potential classification of "high".

A 2009 Phase I Visual Inspection Report by Kleinfelder West, Inc. identified that the dam has an upstream slope with erosion damage and covered with vegetation and the downstream slope was completely covered with large trees and other undergrowth. The outlet gate was operational but not fully functional.

An application for the alteration and removal of the Hanamaulu Field 21 Reservoir was filed on September 10, 2010 by the State of Hawaii, Department of Accounting and General Services (DAGS), on behalf of the owner, the State of Hawaii, Department of Land and Natural Resources (DLNR).

PROJECT DESCRIPTION:

The owner is proposing to reconstruct the spillway by lowering the spillway by approximately 10-ft and widening it to approximately 40-ft. The modified spillway channel and downstream slope will be lined with shotcrete to prevent erosion. The project also will include replacement of the trash rack and slide gate operator on the existing outlet works structure and a staff gage and survey monuments will also be installed. See Exhibit 3.

The completion of this alteration will result in lowering the effective height and volume capacity of the dam such that it will fall below the jurisdictional size definition of a state regulated dam, pursuant to Chapter 179D Hawaii Revised Statutes.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with the Division of Land Management's Environmental Impact Statement Exemption List, approved by the Environmental Council dated April 28, 1986, the subject request is considered exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 that states: "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing." See Exhibit 4.

REMARKS:

The applicant (DAGS) and their client, DLNR-Land Division and the applicant's consultant, GEI Consultants, Inc., have completed a basis of design, plans and specifications and requests for the approval of a dam safety construction/alteration permit. The Department and its engineering consultant, Kleinfelder, Inc. have reviewed the documents and concluded that it is sufficient for its intended purposes, (see Exhibit 5). Staff recommends approval of this permit application with the Dam Safety Permit General Conditions (see Exhibit 6) and additional Special Conditions listed below:

May 27, 2011

SPECIAL CONDITIONS:

1. Provide adequate evidence that revisions to the original construction drawings and specifications that were submitted and approved by DLNR and reviewed by their consultant, Kleinfelder West, Inc. have been incorporated into the construction work (such as in the form of approved change orders or shop drawings).

RECOMMENDATION:

That the Board:

1. Authorize the approval and issuance of the Dam Safety Construction/Alteration Permit for this project; and
2. Direct the Chairperson to issue a dam safety permit for the remediation of the Hanamaulu Field 21 Reservoir (DLNR Dam Safety Construction/Alteration Permit No. 46) subject to such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the Department to oversee the permitted work and take appropriate action including but not limited to selecting and procuring testing or professional services to verify construction work, approval of minor revisions and changes, issuance of fines and /or revocation of the permit, if necessary.
4. Authorize the Department to remove this dam from dam safety regulatory oversight and the requirements of Chapter 179D, Hawaii Revised Statutes, upon satisfactory completion of the construction project.

Respectfully submitted,



CARTY S. CHANG
Chief Engineer

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.
Chairperson

- Exhibit(s):
- 1 Owner Permit Application
 - 2 Location map
 - 3 Partial Construction Drawing set
 - 4 DAGS Right-of-Entry, including Environmental assessment exemption justification (Chapter 343 HRS)
 - 5 Kleinfelder, Inc. correspondence on approval of plans (to be provided at Board meeting)
 - 6 Dam Safety Permit General Conditions

State of Hawaii
BOARD OF LAND AND NATURAL RESOURCES
 Department of Land and Natural Resources
 Engineering Division

**APPLICATION FOR APPROVAL OF PLANS AND SPECIFICATIONS FOR CONSTRUCTION,
 ENLARGEMENT, REPAIR, ALTERATION, OR REMOVAL OF A DAM**

10 SEP 10 08:44 ENGINEERING
 10 SEP 10 08:44 ENGINEERING

Date of Application: August 20th, 2010
 Applicant: Department of Accounting &
 Contact Name: Ernest Y. W. Lau Firm / Company: General Services (DAGS), State of Hawaii
 Mailing Address 1151 Punchbowl Street, Room 426, Honolulu, HI 96813
 Telephone: 808-586-0526 Fax: 808-586-0521 Email: ernest.y.lau@hawaii.gov

The Applicant hereby applies to the Board of Land and Natural Resources for the approval of the attached plans and specification for the Hanamaulu Field Dam Safety Improvements (construction, etc.) in accordance with Chapter 179D HRS (as amended by Act 262, SLH 2006), and subject to the provisions, conditions, and limitations of the current Hawaii Administrative Rules and various DLNR dam safety guidelines.

Accompanying this application are:

	(please check)
1. Filing fee (\$25.00) (Waived for government agencies)	Waived
2. Three (3) copies of the Detailed Cost Estimate	<input checked="" type="checkbox"/>
3. Three (3) copies of the Final Design Report	<input checked="" type="checkbox"/>
4. Three (3) copies of the Plans	<input checked="" type="checkbox"/>
5. Three (3) copies of the Specifications	<input checked="" type="checkbox"/>
6. Proposed Construction Schedule	<input checked="" type="checkbox"/>
7. Supporting documents:	<input checked="" type="checkbox"/>
<u>Three (3) copies of the Emergency Action Plan for Construction</u>	<input checked="" type="checkbox"/>
<u>Three (3) copies of the letters of exemption</u>	<input checked="" type="checkbox"/>

NAME OF STRUCTURE: Hanamaulu Field 21 Dam

DAM OR RESERVOIR LOCATION: North of Lihue, Kaua'i County

Island: Kaua'i Tax Map Key: (4) 3-9-002:020

Attach USGS topographic map (scale 1" = 2000') and property tax map (showing location access to site, proposed work)

State Land Use District: ☒ Agriculture ☐ Urban ☐ Rural ☐ Conservation

BRIEF DESCRIPTION OF WORK TO BE PERFORMED

Vegetation clearing in area of spillway modifications, spillway modifications will result in a shotcrete-lined (8-inch thick), open cut spillway with a 2% slope for a length of about 167 feet and upstream invert elevation of about 267.5 feet. Replace trash rack/slide gate with new trash rack and stainless steel slide gate for existing outlet works. Remove the dam from jurisdiction.

Exhibit 1

TECHNICAL INFORMATION:**DLNR-Dam Safety-Sheet 2**

1. Drainage Area 0.59 sq. miles or 378 acres
2. Classification of Dam Dam size: SMALL, Hazard Classification: HIGH
3. Type of Structure Earthen embankment
4. Elevation-Area-Capacity Data:

	Elevation	Surface Area (acres)	Total Storage Volume (acre-feet)
Natural Streambed	~259'	N/A	N/A
Primary Spillway	~276.5'	N/A	N/A
Secondary Spillway	N/A	N/A	N/A
Top of Dam	~278'	N/A	N/A
Design Water Level	~275'	~4.5	~37.5
Invert of Drain	Upstream ~ 251'	N/A	N/A
5. Spillway Details (Type, Dimensions, Material)
Primary: 20ft. wide concrete/shot-crete lined, discharge to Fern Grotto.
Secondary: None
6. Purpose of Structure Agricultural water supply.
(water supply, irrigation, recreation, real estate development, etc.)
7. Attach rainfall and stream flow records, and flood-flow records and estimates (as accurately as may be readily obtained) See section 2.2 of Design Memorandum - Pertinent Data, Table 2.1: Median annual rainfall is 60 inches.

ADDITIONAL INFORMATION

1. Primary Owner Contact (if different from applicant) Morris Atta, Acting Administrator
Owner Company or Entity: DLNR - Land Division
Mailing Address 1151 Punchbowl St. Room 220, Honolulu, HI 96813
Telephone: 808-587-0422 Fax: 808-587-0455 Email: dlnr.land@hawaii.gov
2. Registered Hawaii Professional Engineer who prepared the plan GEI Consultants, Inc.
Steve Verigin
Mailing Address 10860 Gold Center Drive, Suite 350, Rancho Cordova, CA 95670
Registration No. 13646-CE
Telephone: 916-631-4574 Fax: 916-631-4501 Email: sverigin@geiconsultants.com
3. Registered Professional Engineer to be responsible for inspection during construction _____
Steve Verigin, GEI Consultants Inc.
4. Contractor (If known) Unknown at this time
Mailing Address _____
Telephone: _____ Fax: _____ Email: _____
5. List all other permits applications submitted to other governmental agencies:
Pending submittal by Contractor: DOH - Community Noise Permit, NPDES (Form C & G).
Submitted: 404 to USACE (AG exemption), SCAP (not required).
6. Anticipated effect of proposed structure on natural environment: Modifications to existing spillway will require some vegetation clearing, excavation and placement of concrete. Impact to natural environment will be ephemeral.

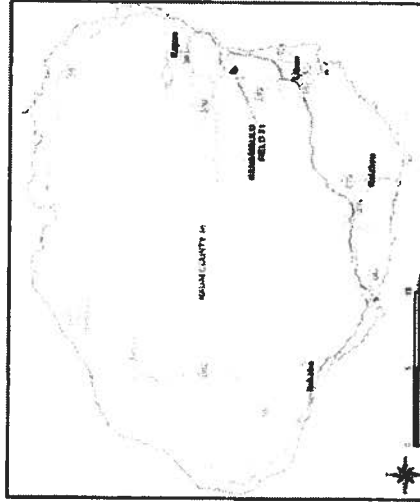
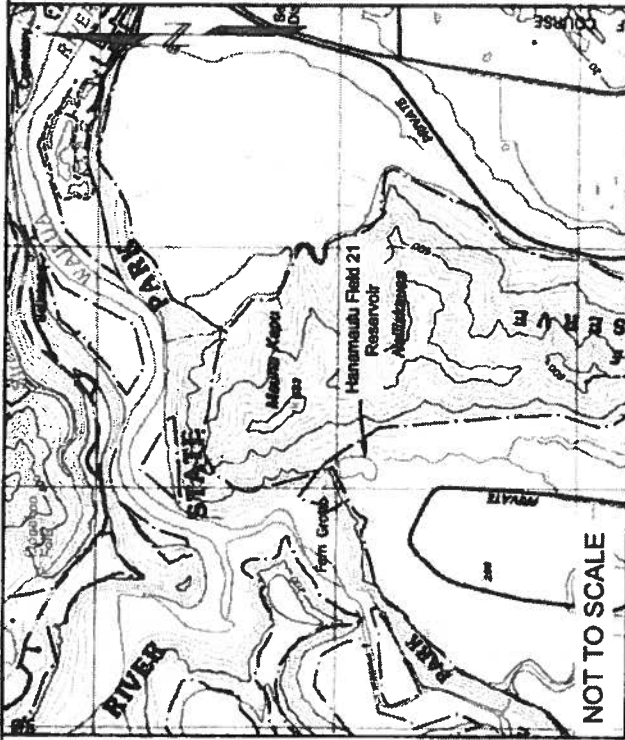
Exhibit 1

1. List all other parties that have ownership or other interest on the parcels where the dam and reservoir are located and identify their interest in the property. The Owners herein listed below concur with the work proposed within this application by the applicant and by his/her signing hereto, the owner of the land extends to the Board of Land and Natural Resources, and its designated representatives, a right-of-entry onto the project site to conduct any investigations or inspections required in compliance with the provisions of Chapter 13-190, Hawaii Administrative Rules. (Submit additional copies of this sheet should there be more owners)

[illegible]

I, Ernest Y. W. Lau the applicant, hereby certify that the information herein is true and factual to the best of my knowledge. Signing below indicates that the applicant understands that, if the permit requested is granted by the Board of Land and Natural Resources, the proposed work is to be initiated and completed within two (2) years of the approval date, unless specifically permitted in the approved permit terms and conditions.

(Signature of Applicant & Title) Public Works Div. Administrator Date: 9/9/10



Source:

USGS 1:24000 Topographic Maps

DLNR Dams & Reservoirs on Kaua'i
Kaua'i, Hawaii

State of Hawaii
Department of Accounting & General Services



HANAMAULU FIELD 21
RESERVOIR
(HI-00135)
SITE LOCATION

Project 092490

June 2010

Figure 2.1

D.A.G.S. Job No. 14-23-7395

DNLR DAMS & RESERVOIRS ON KAUAI MAINTENANCE AND REMEDIATION IMPROVEMENTS HANAMAULU FIELD 21 RESERVOIR (NID HI-00135)

KAUAI, HAWAII

THK: (4) 3-9-002: 020

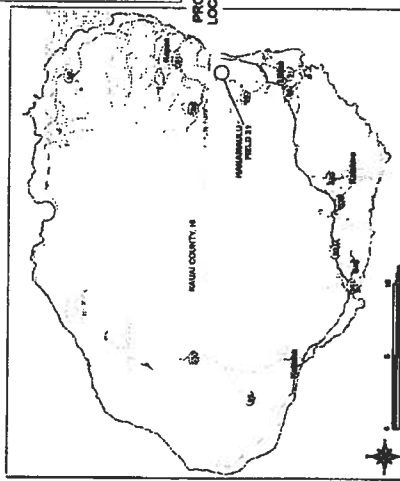
PREPARED FOR:
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

PREPARED BY:



GEI CONSULTANTS, INC.
10880 GOLD CENTER DRIVE, SUITE 360
RANCHO CORDOVA, CALIFORNIA 95670

LOCATION MAP



PROJECT
LOCATION

DRAWING INDEX

SHEET No.	DWG. No.	DRAWING TITLE
1	G-01	TITLE SHEET, DRAWING INDEX, LOCATION MAPS, AND APPROVALS
2	G-02	SYMBOLS, ABBREVIATIONS, GENERAL NOTES
3	C-01	EXISTING SITE AND SURVEY CONTROL PLAN
4	C-02	GENERAL SITE PLAN
5	C-03	VEGETATION CLEARING PLAN
6	C-04	EROSION CONTROL PLAN
7	C-05	EROSION CONTROL DETAILS
8	C-06	SPILLWAY FLOW AND PROFILE
9	C-201	SPILLWAY SECTIONS AND DETAILS
10	S1-01	DAM OUTLET GATE PLAN, ELEVATION, AND SECTION

APPROVED

CHIEF ENGINEER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

DATE

COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

DATE

PUBLIC WORKS ADMINISTRATOR
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

DATE

STATE OF HAWAII DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES DIVISION OF PUBLIC WORKS	
PROJECT: DNLR DAMS & RESERVOIRS ON KAUAI HANAMAULU FIELD 21 RESERVOIR	
TITLE SHEET, DRAWING INDEX, LOCATION MAPS, AND APPROVALS	
DESIGNED BY	DATE
DRAWN BY	DATE
CHECKED BY	DATE
APPROVED BY	DATE
PROJECT NO. 14-23-7395	
SHEET 1 OF 10	

Exhibit 3

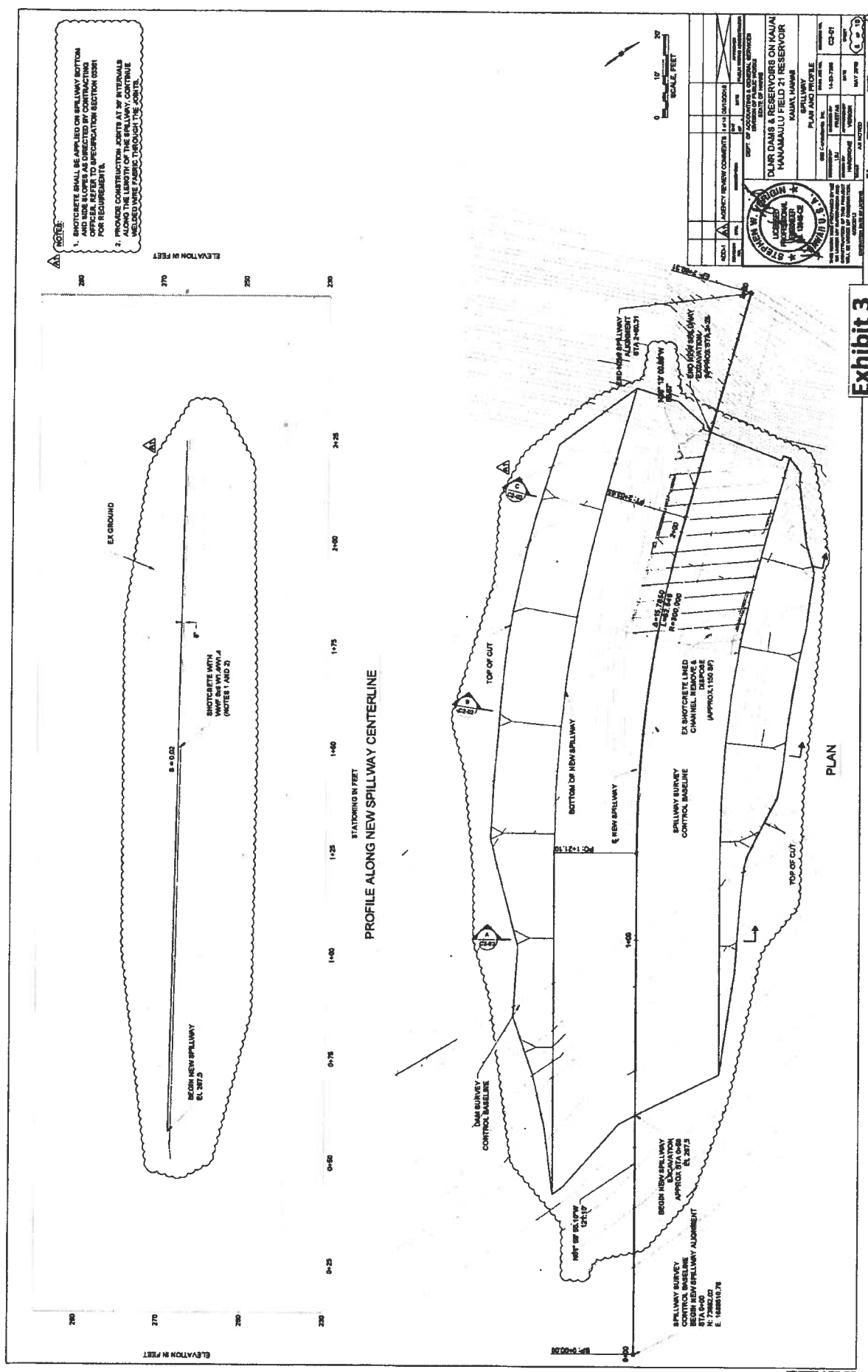
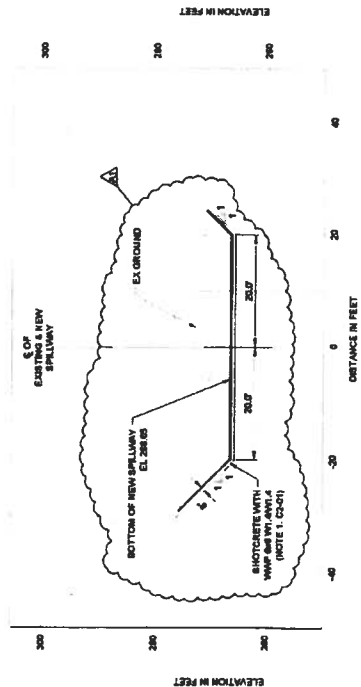
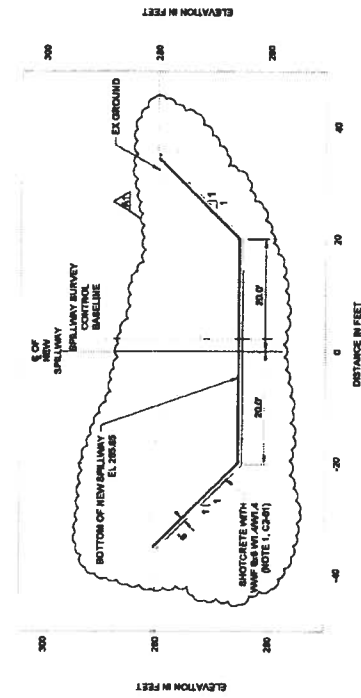


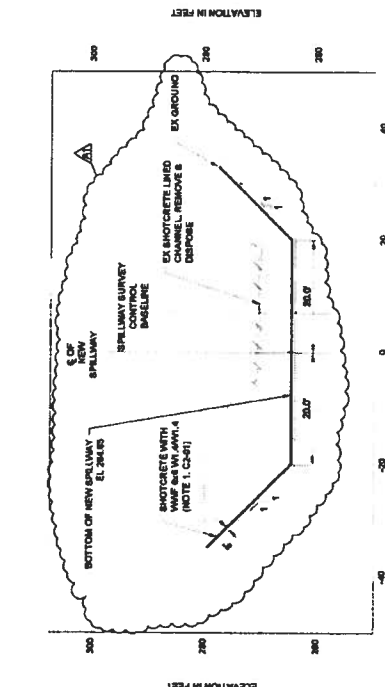
Exhibit 3



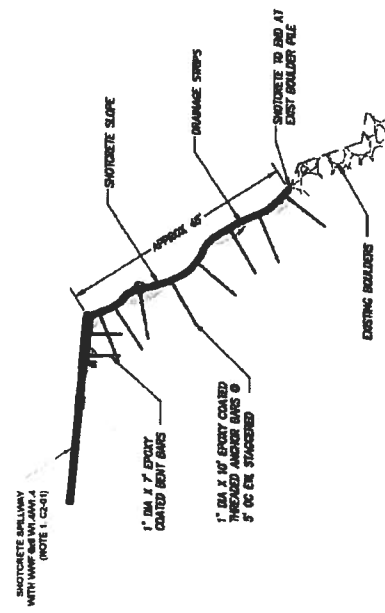
SPILLWAY SECTION - STA 1+00 A
(SECTION LOOKING DOWNSTREAM) C241



SPILLWAY SECTION - STA 1+50 B
(SECTION LOOKING DOWNSTREAM) C241



SPILLWAY SECTION - STA 2+00 C
(SECTION LOOKING DOWNSTREAM) C241



SHOTCRETE SLOPE DETAIL
(NOT TO SCALE)

		DEPARTMENT OF PUBLIC WORKS DIVISION OF HIGHWAYS HONOLULU, HAWAII	
PROJECT: DLNR DAMS & RESERVOIRS ON KAUAI HANAMAULU FELD 21 RESERVOIR KAUAI, HAWAII		SPILLWAY SECTIONS	
DESIGNED BY: DATE: 10/1/78	CHECKED BY: DATE: 10/1/78	APPROVED BY: DATE: 10/1/78	SCALE: AS SHOWN
REVISIONS:		NOTES:	



EXISTING CONDITIONS

TO BE MEASURED IN FIELD

L 2' X 2' 1/4" X 2'-11"

1/4

8 EQ SPACES
(7 EA 1/8 BARS)

L 3' X 3' X 1/4" X 3'-5" (2 PLC's)

PLAN - DETAIL 1

TRASH RACK

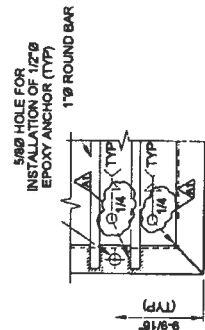
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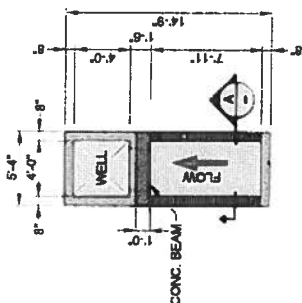
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SCALE FEET

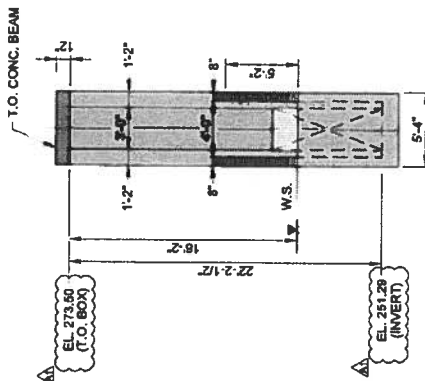
NOTE: HOT DIP GALVANIZE TRASH RACK AFTER FABRICATION.



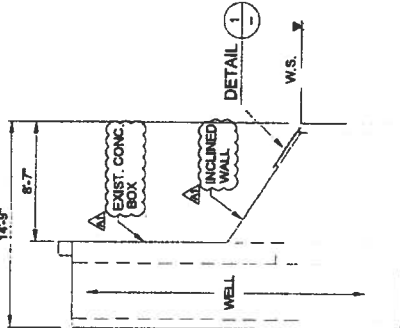
DETAIL 1
N.T.S.



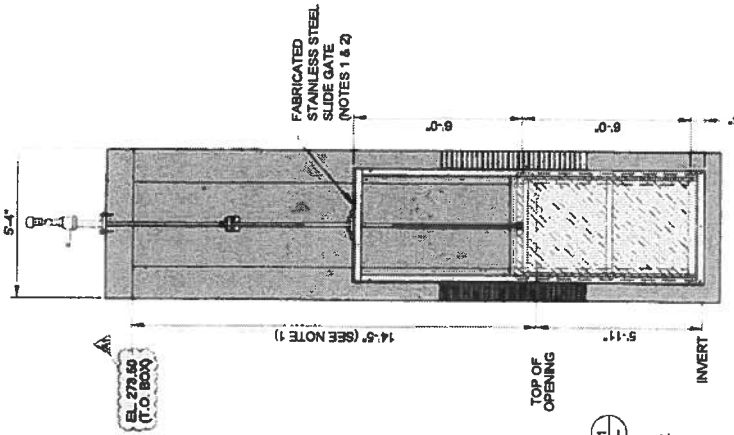
TOP VIEW



US ELEVATION



VIEW - PROFILE



SECTION A-A
SCALE FEET

NOTES:

1. ALL DIMENSIONS TO BE MEASURED IN THE FIELD TO CONFIRM. PRIOR TO ORDERING GATE.
2. SUBMIT GATE SHOP DRAWINGS AND INSTALLATION DETAILS FOR APPROVAL PRIOR TO GATE FABRICATION. IN ACCORDANCE WITH SPECIFICATION SECTION 11280.

ADD-1	AGENCY REVIEW COMMENTS	DATE	BY
ADD-2	AGENCY REVIEW COMMENTS	DATE	BY
<p>DESIGN BY: [Signature]</p> <p>CHECKED BY: [Signature]</p> <p>DATE: 11/11/2010</p> <p>PROJECT: DLIR DAMS & RESERVOIRS ON KAUAI HANAMALU FIELD 21 RESERVOIR KAMU, KAUAI</p> <p>PLAN: DAME OUTLET GATE</p> <p>SCALE: 1/4" = 1'-0"</p> <p>DATE: 11/11/2010</p> <p>BY: [Signature]</p> <p>DATE: 11/11/2010</p> <p>PROJECT: DLIR DAMS & RESERVOIRS ON KAUAI HANAMALU FIELD 21 RESERVOIR KAMU, KAUAI</p> <p>PLAN: DAME OUTLET GATE</p> <p>SCALE: 1/4" = 1'-0"</p> <p>DATE: 11/11/2010</p> <p>BY: [Signature]</p> <p>DATE: 11/11/2010</p>			

Exhibit 3

10-1
AMENDED

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 22, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Kauai

Issuance of a Right-of-Entry Permit to the Department of Accounting and General Services on State Encumbered Lands, Dams and Reservoirs on Kauai; Dam Maintenance and Remediation Improvements for Aahoaka, Hanamaulu Field 21, Wailua, Upper Kapahi and Lower Kapahi Dams and Reservoirs, in Wailua, Kapaia, and Kapahi, Kauai; Tax Map Keys: (4) 3-9-2:1, 20; 4-2-1:4, 5, 8; 4-6-7:11; 4-4-4:4; 4-6-6:7; 4-6-32:22

APPLICANT:

Department of Accounting and General Services (D.A.G.S.), whose business and mailing address is: 1151 Punchbowl Street; Honolulu, Hawaii 96813, on behalf of the Department of Land and Natural Resources (DLNR).

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portions of Government lands, Dams and Reservoirs on Kauai; Dam Maintenance and Remediation Improvements for Aahoaka, Hanamaulu Field 21, Wailua, Upper Kapahi and Lower Kapahi Dams and Reservoirs, in Wailua, Kapaia, and Kapahi, Kauai; Tax Map Keys: (4) 3-9-2:1, 20; 4-2-1:4, 5, 8; 4-4-4:4; 4-6-7:11; 4-6-6:7; 4-6-32:22, as shown on the attached maps labeled Exhibit A.

AREA:

5,656.77 acres, more or less

ZONING:

State Land Use District: Agriculture
County of Kauai CZO: Agriculture / Open

Exhibit 4

TRUST LAND STATUS:

Section 5(B) lands of the Hawaii Admission Act

As Amended *008*
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON **D-1**
September 22, 2010

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES X NO

CURRENT USE STATUS:

Tax Map Key	Document	Tenant	Purpose
3-9-02:1; 02:20	GEO 4328*	Agribusiness Development Corp.	Agriculture and related purposes
4-2 and 4-6	RP 7310	East Kauai Water Users Cooperative ("EKWUC")	Operation, repair and maintenance of irrigation water diversions and transportation infrastructure system including the right to divert, store, take, draw off, conduct away and dispose thereof government owned water from streams and rivers in the drainage area for irrigation purposes.
4-2-1:4	GEO 1389	DOFAW	Public hunting ground & upland game bird reserve
4-2-1; 4-4-4	GL 3911	KIUC	Electrical transmission lines
4-2-1:8	RP 5567	UH College of Tropical Ag	Agricultural experimental purposes
4-4-4:4	GL 5660**	Sanchez, William & Alison	Pasture purposes
4-6-6:7			
4-6-32:22	LOD 28120	Rodrigues, Gary & John	Access & utility easement

*Pending transfer of Revocable Permits to Agribusiness Development Corporation pursuant to Board approval on April 25, 2008, agenda item D-1.

**GL 5660 covers multiple parcels.

CHARACTER OF USE:

Capital Improvement purposes.

TERM OF RIGHT-OF-ENTRY:

Two (2) years.

CONSIDERATION:

Gratis.

Exhibit 4

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with the Division of Land Management's Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject requests are exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 and Exemption Class No. 9. Also, in accordance with Hawaii Administrative Rules, Section 11-200-8(a), the subject request is considered to be exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1. See Exhibit B.

DCCA VERIFICATION:

Government agency; not applicable.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain written concurrence from tenants prior to any activity on the subject lands.

REMARKS:

Act 213, SLH 2007, Item K-6, as amended by Act 158, SLH 2008 appropriated \$14,530,000 for the Dam Assessments, Maintenance and Remediation Improvements, Statewide, for the purpose of satisfying the State's obligations under Act 262, the "Hawaii Dam and Reservoir Safety Act of 2007".

Governor's Memorandum, dated December 18, 2008, delegated this funding to D.A.G.S. Since DLNR, through its Engineering Division's Dam Safety Program, is responsible for the inspection and regulation of all of the State's dams and reservoirs, D.A.G.S. Public Works Division was delegated the responsibility for managing the assessment, repair, alteration and/or removal of the dams and reservoirs under the Department's jurisdiction because there appeared to be the potential for a "conflict of interest" for DLNR to also be responsible for the party conducting the actual assessment and remediation of these dams and reservoirs.

Part of this \$14,530,000 funding is to remediate five (5) dams and reservoirs on Kauai: Aahoaka, Hanamaulu Field 21, Wailua, Upper Kapahi and Lower Kapahi Dams and Reservoirs. To complete the design and construction of these capital improvements, the D.A.G.S. is requesting a right-of-entry for two (2) years. See Exhibit C.

Comments were solicited from the Office of Conservation and Coastal Lands and the State Historic Preservation Division, and they had no objections.

Exhibit 4

Staff recommends gratis consideration for the issuance of the requested right-of-entry permit since the applicant is a government agency.

There are no pertinent issues or concerns.

Staff is recommending authorizing the Chairperson to extend the right-of-entry beyond the 2-year term, in the event that D.A.G.S. projects experience unanticipated delays.

RECOMMENDATION:

That the Board, subject to the Applicant fulfilling the Applicant requirements above, authorize the issuance of a right-of-entry permit to the Department of Accounting and General Services covering the subject areas under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

1. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
3. In the event the projects experience unanticipated delays, authorize the Chairperson to extend the right-of-entry.

Respectfully Submitted,


Lydia M. Morikawa
Special Projects and Development Specialist

APPROVED FOR SUBMITTAL:


Laura H. Thielen, Chairperson

Land Board Meeting September 22, 2010; D-1

Attachments

The Land Board amended the submittal by: changing the term of the right-of-entry permit from two (2) years to one (1) year, renewable annually as needed. Otherwise, the Land Board Approved staff's recommendations as submitted.

Exhibit 4

LINDA LINGLE
DIRECTOR



LARRY L. FILLER
DIRECTOR
DIVISION OF LAND AND NATURAL RESOURCES
MANAGEMENT



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

September 3, 2010

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: DLNR Dams and Reservoirs on Kauai
Maintenance and Remediation Improvements

Project / Reference No.: D.A.G.S. Job No. 14-23-7395

Project Location: Hanamaulu Field 21 Reservoir (State ID #KA-0135)
Kapaia, Kauai County, Hawaii
TMK No.: (4) 3-9-002:020

Project Description: Design and repair of the deficiencies of this reservoir –
spillway alteration to reduce storage capacity to non-regulatory
jurisdiction, and repair the outlet - to insure public safety.

Chapter 343 Trigger(s): Use of State funds and on State lands

**Exemption Class No. and
Description:** 1

In accordance with the Division of Land Management's Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states: "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

The maintenance and improvement project consists of spillway alteration to reduce storage capacity to non-regulatory jurisdiction, and outlet repairs to control storage capacity and divert water, as necessary. Vegetation clearing on the dam

Exhibit 4

crest and in the spillway is also planned.

The maintenance and improvement project is a single action and not a component or incremental action of a larger total undertaking. There is no cumulative impact as this project will serve to ensure that the Dam will continue to function safely as it has been historically, and it will also be in compliance with the Hawaii Dam Safety Act of 2007. Upon repair, the Dam will serve to maintain a safe environment and simultaneously continue to provide an effective water supply.

**Exempt Item and Description
from Agency Exemption List**

5

Routine and emergency repair and restoration of existing structures and facilities on State lands involving negligible or no expansion or change or use beyond that previously existing.

Recommendation:

It is recommended that the Board find that this request will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

Laura H. Thielen, Chairperson

Date

Exhibit 4



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Suite C
Golden, CO 80401
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kleinfelder.com

May 6, 2011

Denise Manuel, P.E.
State of Hawaii
Department of Land and Natural Resources
P.O. Box 373
Honolulu, HI 96809

RE: Permit Review for Hanamaulu Field 21 Reservoir

Dear Denise,

We are providing this letter to state that Kleinfelder has completed a review of the design and construction documents for the modifications to Hanamaulu Field 21 Dam and Reservoir prepared by GEI Consultants, Inc (GEI). These documents consisted of the Design Memorandum, Drawings, Specifications, Opinion of Probable Cost, Construction Emergency Action Plan, Addendum No. 1, Stability Calculations dated March 16, 2011, and Hydrology and Hydraulics Calculations dated March 16, 2011. Comments were provided to the DLNR and copied to GEI. GEI provided responses to these comments. With the exception of the comments that were accepted by DLNR based on GEI's judgment, GEI has responded to our comments satisfactorily. Comments that were accepted by DLNR based on GEI's judgment are comments 15, 16, 17, 18, and 27 on the comment-response document, submitted to the DLNR on April 27th and attached for your use.

We appreciate this opportunity to be of service to you. Please call me at (303) 237-6601 ext. 221 or email llariviere@kleinfelder.com if you have any questions.

Respectfully submitted,

KLEINFELDER WEST, INC.

Laura A. LaRiviere, P.E.
Project Manager

Hawaii Department of Administration and General Services
Hawaii Department of Land and Natural Resources

Project 092490
DLNR Dams Reservoirs on Kauai
Final Design

Dam Maintenance and Remediation Improvements					Kleinfielder Review Comments				Hanamaulu Field 21 Reservoir; DAGS Project No. 14-23-7396	
Comment Number	Reviewer	Page, Section or Dwg Ref	Paragraph, Section or Detail Ref	Review Comment	Designer Response/Action	Acceptance/Comment	Acceptance/Comment 10-22-10	Acceptance/Comment 4-13-11		
1	DLNR / DAGS/KF	Design Memo	H&H	Did the USACE use HEC-HMS to route the PMF and 1 percent flood through the reservoir or HEC-RAS, as indicated in the last paragraph of Section 2.37?	Accepted. Will clarify text in Design Memorandum and H&H appendix. USACE used HEC-HMS to compute run-off hydrographs and used HEC-RAS to route the PMF and 1% flood through the reservoir.	Design Memorandum not provided to verify. Unknown if comment was addressed.	Comment resolved.			
2	DLNR / DAGS/KF	Design Memo	H&H	Table 3 shows different values for diversions into the reservoir for the PMF case and 1-percent case (80 cfs versus 40 cfs). Please provide a reason for this difference. Amended Comment (10-22-10): Text was not added to the report. Comment still applies.	Accepted. The reason for the difference is documented in the referenced USACE report, and will be added to the memorandum and the H&H appendix. Amended Response: "No base flow and recession methods were used in the model. However ditch flow can contribute flow to the reservoir continuously. Based on the ditch geometry data measured in the field, an estimate of maximum ditch flow of 80 cubic feet per second (cfs) was computed. This value was used in the PMF model. A more probable range would be 20 to 60 cfs, so 40 cfs was used as a constant into the sunny day and 1-percent chance flood model calibrations and analysis runs. The use of such high ditch flows was a conservative assumption that ditch flow cannot be turned off during an extreme event." (Excerpt from: Dam Break Analysis for Hanamaulu Field 21 Reservoir, USACE, April 2008, p19)				Response is reasonable.	
3	DLNR / DAGS/KF	Design Memo	H&H	Section 3 states that the spillway will either be modified to be 25 feet wide by 12.3 feet deep or 35 feet wide by 9.82 feet deep. The design drawings show a spillway width of 40 feet. Please show correct dimensions and elevations throughout the design documents. Additional, Section 3 states that the new spillway will be constructed using six 8-ft wide box culverts. This does not coincide with the spillway modifications shown on the design drawings, and the use of box culverts seems unnecessary since a vehicular crossing over the spillway is not needed.	Accepted. Design memorandum and construction drawings will be revised to appropriately reflect final design spillway configuration.	Design Memorandum not provided to verify. Unknown if comment was addressed.	Comment resolved.			

Hawaii Department of Administration and General Services
Hawaii Department of Land and Natural Resources

Project 092490
DLNR Dams Reservoirs on Kauai
Final Design

Dam Maintenance and Remediation Improvements										Kleinfelder Review Comments			Hanamaulu Field 21 Reservoir; DAGS Project No. 14-23-7396		
Comment Number		Reviewer	Page, Section or Dwg Ref	Paragraph, Section or Detail Ref	Review Comment	Designer Response/Action	Acceptance/Comment	Acceptance/Comment 10-22-10	Acceptance/Comment 4-13-11						
4		DLNR / DAGS/KF	Design Memo	H&H	There are no detailed calculations or modeling output given to justify the new spillway dimensions and elevations. Amended Comment (10-22-10): HEC-RAS output is included in Appendix C. However, Section 4 of Appendix C states that outflow hydrographs are included, and they are not. Also, the HEC-RAS sections provided are not labeled with river stations, so it is difficult to determine which sections correspond to the river stations in the output summary table. Output hydrographs and station labels should be provided as should documentation for the expected outflow from the reservoir used in the HEC-RAS analysis. Also, both the PMF and 100-year flood routings are discussed, but only one HEC-RAS scenario is included.	Accepted. HEC-RAS output and related documentation will be added to H&H appendix. Amended Response: The requested information is attached (HF21_H&H_Support_16-Mar-2011.pdf).			Response is reasonable.						
5		DLNR / DAGS/KF	Design Memo	H&H	Drawing 8 shows modifications to the dam outlet gate, but these modifications are not discussed in the memorandum.	Accepted. Modifications to the dam outlet gate will be discussed in the memorandum and H&H appendix.	Design Memorandum not provided to verify. Unknown if comment was addressed.	A very brief discussion is included in the report; there is no information on the outlet replacement in the H&H appendix. Comment resolved.							
6		DLNR / DAGS/KF	Specifications	03301-6, 3.02.1	First word is 'My' - is this correct?			Comment resolved.							
7		DLNR / DAGS/KF	Sheet 8, C2-01		Note 1 needs to be rotated 90 degrees clockwise.			Comment resolved.							
8		DLNR / DAGS/KF	Specifications		The spec for embankment fill says the max fines is 35% but then the material type called out is ML and CL. You cannot have a ML or CL with less than 35% fines. Section 3.06 Embankment Fill Section E.2. That sentence is confusing. Please clarify.	Refer to the Bid Documents as amended by Addendum No. 1.			Response is reasonable						
9		DLNR / DAGS/KF	Specifications			Material must be excavated to fulfill the benching requirements. If this excavated material meets specification requirements for embankment fill, then it is to be moisture conditioned, placed and compacted in the required fills. We do not anticipate that this provision will be employed for Hanamaulu Field 21 Reservoir dam construction; this is a "standard" earthwork specification prepared for all of the DLNR Kauai dam projects.			Response is reasonable						
10		DLNR / DAGS/KF	Specifications		Would a spec for the test section for the shotcrete be appropriate?	We will discuss with DLNR. A test panel or section would require a change order and additional project cost. While there would be some benefit to evaluating the contractor's means and methods, we do not believe that a test panel or section is critical to project success.			Response is reasonable. Proceed with test section if appropriate after discussions with DLNR						

Hawaii Department of Administration and General Services
Hawaii Department of Land and Natural Resources

Project 092490
DLNR Dams Reservoirs on Kauai
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Dam Maintenance and Remediation Improvements					DESIGN REVIEW COMMENTS			
					Kleinfelder Review Comments			
Comment Number	Reviewer	Page, Section or Dwg Ref	Paragraph, Section or Detail Ref	Review Comment	Designer Response/Action	Acceptance/Comment	Acceptance/Comment 10-22-10	Acceptance/Comment 4-13-11
11	DLNR / DAGS/KF	drawings		The extents of the pool should be shown on C-02 and C-04 as it appears the staging, stockpiling and silt fence are in the pool area.	The available project topography does not extend for the entire reservoir area. The limits shown on the drawings were developed by superimposing aerial imagery on the topographic mapping. Staging, stockpile and silt fence limits are approximate and will be adjusted in the field as necessary.			Response is reasonable
12	DLNR / DAGS/KF	Specifications		There is an earthfill spec yet no earthfill placement is shown on the drawings.	The earthfill provisions are included to address potential excavations needed to meet grubbing requirements.			Response is reasonable, as earthfill is referenced in section 02110
13	DLNR / DAGS/KF	drawings		There is some discussion in a note about excavation of basalt in the spillway, how big of a knob is too big to be left in place in the spillway excavation? How do you plan on removing unwanted rock? <u>Attended Comment:</u> The discussion has been removed from the drawing. Will there still be rock excavation? How will it be dealt with?	Excavation for the project is unclassified (Ref Section 02300, 3.04.K), and may include soil, weathered rock and rock. All excavation means and methods are the responsibility of the Contractor, except that blasting will not be permitted without written approval of the Contracting Officer (Ref Section 02300, #04.L).			Response is reasonable
New Comments from 10-22-10								
14	DLNR / DAGS/KF	Section 3.3 Geotechnical	3.3.2	Text is referring to Waialua reservoir, please correct and make any adjustments for Field 21.	Agree.			Response is reasonable.
15	DLNR / DAGS/KF	Section 4 Geological and Geotechnical Evaluation	4.2, last paragraph	The paragraph states that the "The need to perform additional field exploration or laboratory testing for the Hanamaulu Field 21 Reservoir was considered." The statement implies that there has been past explorations performed at the site. The results of the past explorations should be included in the report. If no previous explorations were performed, what is the basis of the property correlations?	From our reconnaissance of the Field 21 Reservoir site and our review of various geotechnical reports prepared for nearby sites (Upper Kapahi, Lower Kapahi, Waialua, Ka Loko) the embankment and foundation materials at these sites were judged to be within the same "family" of soil conditions. Accordingly, we believe it is appropriate and reasonably conservative to select values for engineering properties using the existing body of laboratory testing and investigation data. Engineering properties for the embankment and foundation soils at Field 21 are the same as those used at U. Kapahi, and were derived in the same manner.			GEI's general approach addresses the issue and is acceptable based on GEI's judgement.
16	DLNR / DAGS/KF	Section 5 Geotechnical Analysis		How was the stratigraphy of the dam determined? The report should provide supporting subsurface data.	Stratigraphy was based on our observations at the site, correlation with other dams sites, and engineering judgement.			GEI's general approach addresses the issue and is acceptable based on GEI's judgement.

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Kleinfelder Review Comments					
Comment Number	Reviewer	Page, Section or Dwg Ref	Paragraph, Section or Detail Ref	Review Comment	Designer Response/Action
17	DLNR / DAGS/KF	Section 5 Geotechnical Analysis	Section 5.3	Seepage analysis was performed but exit gradients are not discussed. The report should include exit gradient evaluation and resolution of any issues.	Seepage analyses to evaluate potential seepage quantities and gradients were not performed. A primary objective of the project is to remove the dam from state jurisdictional status. To meet the requirements for non-jurisdictional status, the spillway will be significantly lowered. The proposed modifications will result in a maximum normal water pool depth of about 10 ft, with a corresponding storage volume of about 10 AF. The new max. normal water depth is about 50% of the existing depth. The proposed modifications reduce the overall gradient through the embankment from about 0.3 to about 0.1 (Sta 3+35z). By comparison, the overall gradient for the modified Waialua Reservoir dam will be about 0.2 (Sta. 7+60). Calculated seepage quantities and exit gradients for the modified Waialua embankment conditions were found to be satisfactory with respect to dam safety. Since the material properties for the Field 21 and Waialua embankments are similar, and since the overall gradient at Field 21 is less, we would expect that calculated seepage quantities and exit gradients for Field 21 would demonstrate similar or better performance performance with respect to dam safety. The seepage performance of the modified Field 21 embankment is thus judged to be acceptable by inspection.
18	DLNR / DAGS/KF	Appendix B	General	The upstream slope in the modal does not match the slope shown on the drawings or listed in the report.	Refer to corrected embankment stability analyses summary and results, attached (FZ1_CorrectedEmbStability_16-Mar-2011.pdf).
19	DLNR / DAGS/KF	Appendix B	General	The material strengths used in the modal do not match the material strengths shown on Table 4.2.	Refer to corrected embankment stability analyses summary and results, attached (FZ1_CorrectedEmbStability_16-Mar-2011.pdf).
20	DLNR / DAGS/KF	Section 7 Remedial Design Modifications	7.2.1 Vegetation Clearing		
21	DLNR / DAGS/KF	Section 8 Construction Considerations	Section 8.5 Staging and Stockpile Areas	The report states that staging and stockpile areas are shown on drawing C-02. There are no staging or stockpile areas shown on the drawing. Where will these areas be?	Refer to Bid Documents as amended by Addendum No. 1, Dwg C-02.
22	DLNR / DAGS/KF	Drawings	Sheet C-05	The silt fence detail gives an overall minimum height of 48 inches, but minimum heights for the components total only 42 inches. Please clarify.	The minimum required height will be modified to 42"; we will formally advise the Contractor of this modification.
					Acceptance/Comment 10-22-10
					Acceptance/Comment 4-13-11
					GEI's general approach addresses the issue and is acceptable based on GEI's judgement.
					Slopes appear to be appropriate. The limits for the upstream analysis under seismic loading appears to be restricted by the modal limits.
					The material strength values appear to match between the analysis and the report.
					Response is reasonable
					Response is reasonable.

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Dam Maintenance and Remediation Improvements					DESIGN REVIEW COMMENTS			Final Design	
					Kleinfielder Review Comments			Hanamaulu Field 21 Reservoir; DAGS Project No. 14-23-7395	
Comment Number	Reviewer	Page, Section or Dwg Ref	Paragraph, Section or Detail Ref	Review Comment	Designer Response/Action	Acceptance/Comment	Acceptance/Comment	Acceptance/Comment	Acceptance/Comment
23	DLNR / DAGS/KF	Drawings	Sheet C2-02	The drainage strips called out on the Shotcrete Slope Detail are not detailed in the drawings. The specifications state that drainage shall be provided 'in the manner shown,' but no detail is provided. Please provide details. Also, clarify what is meant by existing boulder pile and method for determining extents.	Drain strips will be placed vertically at 4-ft centers on vertical and near-vertical surfaces as indicated. The strips will be nailed or otherwise fastened to the rock face prior to shotcreting. We will provide formal clarification to the Contractor. The "boulder pile" is an existing site feature; the limits of shotcrete will be determined in the field by the Engineer.				Response is reasonable. Formal clarification should be made to the Contractor regarding drainage strips and the "boulder pile"
24	DLNR / DAGS/KF	Drawings	S1-01	On the Trashrack Plan-Detail, the dimension on the right side of the detail is 2 feet 11 inches, but the L is called out with a length of 3 feet 5 inches on the left side of the detail. Please clarify.	The total length of the L3x3 is 3'-5" (2'-11" + 2x leg dimension of 3").				Response is reasonable.
25	DLNR / DAGS/KF	Drawings	C-05	Is the dark line under the ASTM C33 coarse aggregate on the detail of the stabilized construction entrance supposed to represent something, maybe a geomembrane? Please clarify.	The referenced line represents geotextile fabric placed under the coarse aggregate. Material must meet requirements for "Geotextiles For Permeable Separator Applications", Section 716, 2005 Standard Specifications, Hawaii Department of Transportation. We will formally advise the Contractor of this requirement.				Response is reasonable. Contractor should be formally informed about the requirements
26	DLNR / DAGS/KF	Drawings	C-04	What is the construction access to the staging and stockpile area.	There is an existing unimproved access road not shown on the drawing.				Response is reasonable. Contractor should be informed of unimproved access road.
27	DLNR / DAGS/KF	Drawings	C2-01	In the profile along new spillway centerline, it is called out that Shotcrete with WWF 6x8 W1.4/W1.4. Suggest to add details or notes regarding anchoring or attaching welded wire fabric to the excavated spillway slope.	Anchors were considered but rejected, based on a qualitative evaluation of expected cost and resulting benefit. Note 2 will be revised to replace "construction joints" with "control joints." Reinforcement will not be continuous across the joints. These joints will provide temperature and shrinkage stress relief, as well as uplift pressure relief. We will formally advise the Contractor of these modifications.				GEI's general approach addresses the issue and is acceptable based on GEI's judgement.
28	DLNR / DAGS/KF	Drawings	C2-02	Suggest to add details or notes regarding at the top of the spillway slope, how shotcrete is transitioned/tied to the existing ground surface.	Shotcrete will be "wrapped" a nominal distance past the top of the slope. Additional details will be determined in the field by the Contractor, subject to approval by the Engineer.				Response is reasonable. Contractor should be formally informed about the requirements
29	DLNR / DAGS/KF	Specification Section 02300	Part 2- Products	Rock fill material was discussed in this section. However, it was not clear where this type of fill material is to be used in construction.	Rock fill requirements were inadvertently left in the specification; the current design does not use this material.				Response is reasonable. Notification should be made to the Contractor to omit this portion of the specifications
30	DLNR / DAGS/KF	Specification Section 03351	Part 1- General, Section 1.03	Suggest to add submittal requirement to request contractor's qualification for performing shotcrete work.	Nozzlemen must be qualified in accordance with the provisions of paragraph 1.03.B.3. We believe these requirements are adequate for the proposed work.				Response is reasonable

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Comment Number	Reviewer	Page, Section or Dwg Ref	Paragraph, Section or Detail Ref	Review Comment	Designer Response/Action	Acceptance/Comment	Acceptance/Comment 10-22-10	Acceptance/Comment 4-13-11	
31	DLNR / DAGS/KF	Specification Section 03361	Part 3- Execution	Suggest to add procedure for installing and anchoring the welded wire mesh reinforcement.	The design intent is to place the reinforcement at approximately the center of the full shotcrete depth, or about 4-in. from the finished surface. The contractor will be required to position and secure the reinforcement so as to meet this requirement. Methods to position and secure the reinforcement will be the Contractor's responsibility, subject to review and approval by the Engineer. We will formally advise the Contractor of these requirements.			Response is reasonable	
32	DLNR / DAGS/KF	Specification Section 02300	1.01 C	Should add a reference to section 02554 Temporary Erosion Control	Noted. Comment will be considered if post-award modifications to this specification section are made for other reasons.			Response is reasonable.	
33	DLNR / DAGS/KF	Specification Section 05120	1.01 B	What work will be performed with cast in place concrete? This needs to be clarified and added to the specifications or removed from the references	This reference was inadvertently included, there is no cast-in-place concrete on this project. We will consider removing if post-award modifications to this specification section are made for other reasons.			Response is reasonable. Notification should be made to the Contractor to omit this portion of the specifications	
34	DLNR / DAGS/KF	Specification Section 11280	1.01 A	This needs to either be added to the specifications or removed from the references	Paragraph 1.01A in Section 11280 is appropriate. Assume this is an extension of previous comment (No. 33).			Response is reasonable	
35	DLNR / DAGS/KF	Specification Section 03361	General	A minimum thickness of shotcrete is not specified in either the specifications or drawings. A note in the drawings states "as directed", but a minimum thickness should be given	Shotcrete thickness is called out as 8-in (Dwg. C2-01, Profile; Dwg. C2-02, Sect's A, B and C).			Response is reasonable	

DAM SAFETY PERMIT GENERAL CONDITIONS

APPROVAL OF PLANS AND SPECIFICATIONS FOR DAM AND RESERVOIR CONSTRUCTION, ENLARGEMENT, REPAIR, ALTERATION OR REMOVAL

The following General Conditions shall be adhered to for all Dam Safety permits unless otherwise authorized in writing.

1. Actual construction, enlargement, repair, alteration or removal shall be completed within 5 years of issuance of the permit application approval unless an extension authorized in writing by the Board is issued.
2. Prior to the start of work the owner or applicant shall provide a construction engineer to ensure compliance with the approved plans and specifications and who shall have ultimate responsibility for the supervision of all inspection tasks. The construction engineer may assign some inspection tasks to a duly authorized agent under the construction engineer's supervision. The engineer shall be licensed in the State of Hawaii.
3. The construction engineer shall maintain a record of construction that at a minimum, shall include, daily activity, and progress reports, all test results pertaining to construction; photographs sufficient to provide a record of foundation conditions and various stages of the construction through completion, all geologic information obtained; and construction problems and remedies.
4. A construction quality assurance plan shall be prepared and submitted to the Department for approval prior to the start of construction, which details the minimum requirements of the construction engineer's observation of construction.
5. A construction schedule, which includes the notice to proceed date and estimated project duration and a construction emergency action plan shall be submitted prior to the preconstruction meeting.
6. A preconstruction meeting shall be held subsequent to submitting the quality assurance plan, construction schedule and construction emergency action plan, but not later than 14 days prior to the start of construction. All parties actively involved in the construction should be requested to attend, such as the dam owner, the design engineer, the construction engineer, the contractor and the Department.
7. The Department shall be notified 5 calendar days prior to the commencement of construction.
8. Any changes from the approved plans and specifications shall be approved by the design engineer and a change order, including details and supporting calculations, must be provided to the Department. Major changes must be submitted in writing with supporting documentation and approved in writing by the Department. No work shall be initiated until the approval by the Department or Board is received. Minor changes may be transmitted verbally and approved by the Department verbally provided that documentation of the change is provided to the Department within 10 days of the approval.

9. For new dam construction and for dams and reservoirs that have lowered the water level or have been drained to facilitate construction, the construction engineer shall file and obtain approval of a filling plan with the Department. The applicant/owner shall not proceed with the filling of the reservoir until it receives permission from the Department. The construction engineer shall provide documentation of monitoring during the filling operation.
10. Prior to the filling of the reservoir, the construction engineer shall submit one copy each of the approved Operations Manual and the approved Emergency Action Plan for the facility upon completion of the project as applicable.
11. The construction engineer shall give the Department at least ten days advanced notice of initial materials placement of the dam's foundation, in the cutoff trench, outlet backfill, outlet foundation, and any appurtenance requested by the Department in the approval of the plan for construction observation, to allow for observation by the Department.
12. Notice of substantial completion shall be issued by the construction engineer to the Department stating that the permitted improvements are functionally complete such that filling of the reservoir can be initiated with an approved filling plan.
13. The construction engineer shall give the Department fifteen (15) calendar days advance written notice prior to the project's final construction inspection. The construction engineer shall coordinate with the Department to conduct this inspection in the presence of the Department's dam safety personnel.
14. The construction engineer shall provide notice at least ten (10) days prior to initiating filling the reservoir, unless agreed at the final inspection.
15. If conditions are revealed which will not permit the construction, enlargement, repair, alteration, or removal of a safe dam or reservoir, the application for approval for construction, enlargement, repair, alteration, or removal shall be revoked.
16. A topographic survey of completed work including all monuments, inverts, crest alignment, spillways, and significant appurtenant features, when required by the Department shall be completed.
17. The applicant/owner shall utilize appropriate erosion control best management practice measures during construction to minimize turbidity (such as scheduling of work during period of low stream flow) and prevent debris and construction materials, including concrete, petroleum products, and other pollutants from enter the waters of the State. Construction related water and debris should be properly disposed of in a legal and environmentally safe manner and in accordance with the Department of Health and other Federal regulations.
18. The applicant/owner shall submit a copy of the dam safety application and the plans and specifications of the proposed improvements to the County Engineer of the County for which the dam resides for compliance with County codes.
19. Within fifteen (15) calendar days of completing the project, the applicant/owner or its representative shall provide the Department with a confirmation letter of compliance, signed and stamped by the construction engineer, indicating that the construction

was completed in accordance to approved plans and specifications including any field changes. The construction engineer shall submit the remaining construction completion documents which may include, but not be limited to, as-constructed drawing, final construction report, topographic survey, record of the location of permanent monuments, log of recorded water levels and other readings from the refilling operation, long-term instrumentation monitoring plan, and affidavit showing the actual cost of construction including engineering costs, within 60 calendar days of the submittal of the final construction inspection.

20. Construction completion documents and the construction engineer's certification shall be provided to the Department within 60 days of the final construction inspection. The Department will review the submitted items and furnish acceptance or denial within 60 days of receipt of satisfactorily completed construction completion documents and close out the dam safety permit.
21. This permit does not relieve the applicant/owner of their obligations to comply with all applicable Federal, State, and County regulations.

Facsimile To: (808) 587-0390 Fax
State of Hawaii
Board of Land & Natural Resources
Administrative Proceedings Office
1151 Punchbowl St., Room 1030
Honolulu, Hawaii 96813

From: Likookalani Martin (808) 431-4102 Fax

Enc. Tpp. Petition For a Contested Case Hearing
June 6, 2011

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STATE OF HAWAII

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EXHIBIT 2



STATE OF HAWAII
BOARD OF LAND AND NATURAL RESOURCES

PETITION FOR A CONTESTED CASE HEARING

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OFFICIAL USE ONLY		DEPT. OF LAND & NATURAL RESOURCES STATE OF HAWAII
Case No.	Date Received	
Board Action Date / Item No.	Division/Office	

INSTRUCTIONS:

1. File (deliver, mail or fax) this form within ten (10) days of the Board action date to:

Department of Land and Natural Resources
Administrative Proceedings Office
1151 Punchbowl Street, Room 130
Honolulu, Hawaii 96813
Phone: (808) 587-1496, Fax: (808) 587-0390

2. DLNR's contested case hearing rules are listed under Chapter 13-1, HAR, and can be obtained from the DLNR Administrative Proceedings Office or at its website (<http://hawaii.gov/dlnr/rules/Ch13-1-Official-Rules.pdf>). Please review these rules before filing a petition.
3. If you use the electronic version of this form, note that the boxes are expandable to fit in your statements. If you use the hardcopy form and need more space, you may attach additional sheets.
4. Pursuant to §13-1-30, HAR, a petition that involves a Conservation District Use Permit must be accompanied with a \$100.00 non-refundable filing fee (payable to "DLNR") or a request for waiver of this fee. A waiver may be granted by the Chairperson based on a petitioner's financial hardship.

A. PETITIONER		
(If there are multiple petitioners, use one form for each.)		
1. Name Likookalani Martin	2. Contact Person	
3. Address P.O. Box 564	4. City Anahola	5. State and ZIP HI 96703
6. Email	7. Phone (808) 634-5030	8. Fax

B. ATTORNEY (if represented)		
9. Attorney Name	10. Firm Name	
11. Address	12. City	13. State and ZIP
14. Email	15. Phone	16. Fax

C. SUBJECT MATTER	
17. Board Action Being Contested Board of Land and Natural Resources Approval of: APPLICATION FOR A DLNR DAM SAFETY CONSTRUCTION/ALTERATION PERMIT, PERMIT NO. 46 HANAMAULU FIELD 21 RESERVOIR (KA-0135), DAM ALTERATION AND REMOVAL, KAPAIA, KAUAI, HAWAII. D.A.G.S. Job No. 14-23-7395; TMK No. (4) 3-9-2:20.	
18. Board Action Date May 27, 2011	19. Item No. L-1
20. Nature and Extent of Petitioner's Interest That May Be Affected by the Board Action Tax Map Key Numbers: (4) 3-9-002:020, Hanamaulu Field 21 Reservoir, (Kapaia), Wailua, Kauai. This Petition for a contested case hearing regards the May 27, 2011, Board of Land and Natural Resources, Engineering Division Submittal, Item L-1: The Engineering Division hereby submits an application for your approval and authorization for the Chairperson and Department to stipulate conditions and issue a Dam Safety Construction/Alteration Permit for the subject application, "Alteration and removal of the HANAMAULU FIELD 21 RESERVOIR", pursuant to Chapter 179D Hawaii Revised Statutes. Petitioners' interest are as follows: (a) Petitioner's interest is with respect to declared protection "...both of the people and the chiefs of all these islands,who may enjoy the same protection, under one and the same law."-Hawaiian Laws, 1841-1842, Constitution and Laws of the Hawaiian Islands, Established in the reign of Kamehameha III, Lahainaluna. It is further, with the understanding that "Title" to the lands under the disposition authority of the [State of Hawaii Incorporated], are, Reserved, respectfully to the family of His Majesty Kamehameha III, Kauikeaouli, and to his successors, and assigns, subject to the private vested, or other rights acquired in accordance with "...Hawaiian [National] Usage..."; acknowledging the full expiration of the term of the lease, and that subject lands have been returned, together with all buildings, and closure, and improvements thereon. This interest is with respect to the "Kalepa Lands" Portion of Government lands, also identified as "Crown Lands", consisting of approximately 6,766 acres of lands formerly leased to the Lihue Plantation Company in Hanamaulu and Wailua, and identified by various Tax Map Key numbers. (b) Regarding the management, for restoring and maintaining mineral resources, surface and ground water, and land customarily used for the production of kalo (taro), 'uala (sweet potato), medicinal flora, and other edible foods based upon traditional and cultural use and occupancy. (c) Forestry management, including harvesting of timber, stone (for imu and traditional house construction) as well as sand and soil for nursery activities. Such use also includes the collective maintenance and enhancement of irrigation systems including manu, 'auwai and fishponds that existed prior to the diversions of water by the leasee.) Petitioners interest includes the waters of the East Kauai Water System, that includes extensive prehistoric water systems and also constitutes the existing water irrigation systems, and waters that begin at source at "Blue Hole" at Waialeale, to the North and South Forks of Wailua River and to Kalepa Ridge, and to the south at Hanamaulu. (d) Petitioners interest concerns significant impacts and adverse effects on the environment for which review under the U.S. National Environmental Protection Act, and Chapter 343, HRS and Chapter 11-200, HAR is warranted. It is critical that environmental review is conducted because there is an intended use by the applicant for which there has been no disclosure within this singular application, in accordance with due processes of law.	

An environmental review is also necessary to identify those impacts of past land use by the leasee with respect to changes in contours, elevation and flow of waters during flood periods, in order to mitigate damage from soil run-off that would be eminent as caused by deforestation and inadvertent grading, as it would directly and negatively impact and affect the Wailua River basin, the residences and business structures along the river, in addition to nearshore marine ecosystems to the north and south of the East facing Wailua River.

(e) Petitioners interest respectfully recognizes the existence of lineal descendants throughout the Hawaiian Islands from the Wailua, Kalepa and Hanamaulu ahupuaa and Puna and Huleia district located on the island of Kauai, specifically and traditionally known as Mauna Kapu, and later historically known as Kalepa Ridge: and in this respect, facilitate their introduction and warrants their capacity both professionally, and as laymen, to administer the recovery of their individual vestings, and attributes of their culture that are of the individual and the collective nature, lending to their well-being and security, that they may prosper in a cultural setting within a productive society and meaningful lifestyle.

(f) Petitioners interests include the religious and traditional cultural properties and traditional cultural rituals, practices and beliefs that are located and that continue to be exercised in the area of effect of this project in the Wailua and Hanamaulu Ahupuaa. These practices relate to the use of the waters, heiau and specific traditional cultural properties in affected areas singularly, as Mauna Kapu, and collectively, regarding the extensive and multiple heiau complexes of Wailua, Kauai, including undocumented traditional cultural properties within the Mauna Kapu, Kalepa and Wailua (Wai 'chu) Falls areas. These are highly associated with Kawelomahamahaia, and all sacred Kawelo and Wailua Alii lineages.

(g) Petitioners interests are clearly distinguishable from that of the general public.

21. Any Disagreement Petitioner May Have with an Application before the Board

(a) Land Title and Landowner. The [State of Hawaii Incorporated] does not possess clear title to the lands, including all natural, water, mineral, cultural, historical and religious properties and resources involved in this application: "The Law of 1841-1842, (Fundamental Law), His Majesty, Kamehameha the Third, Promulgated 1845-1846" which runs Fraudulent Conveyance to land titles after 1846.

(b) Permit No. 46. DLNR Dam Safety Construction/Alteration Permit- Permit No. 46 – Hanamaulu Field 21 Reservoir (KA-0135) Dam Alteration and Removal, Kapaia, Kauai, Hawaii. Petitioner is opposed to approval of Permit No. 46, due to violations of Chapter 343, HRS.

Chapter 343-Environmental Assessment. According to the D.A.G.S. BLNR submittal Item L-1, the subject request is considered exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 that states: "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

Furthermore, according to DLNR-Dam Safety-Sheet 2, "APPLICATION FOR APPROVAL OF PLANS AND SPECIFICATIONS FOR CONSTRUCTION, ENLARGEMENT, REPAIR, ALTERATION, OR REMOVAL OF A DAM" (Ernest Y.W. Lau, D.A.G.S., BLNR Exhibit I dated August 20th, 2010), "other permits applications pending includes NPDES (Form C & G), and Section 404 to U.S. Army Corps of Engineers (AG exemption)".

§11-200-8 Exempt classes of action. (a) Chapter 343, HRS, states that a list of Exempt classes of actions are drawn up "because they will probably have minimal or no significant effect on the environment, may be declared exempt by the proposing agency or approving agency from the

preparation of an environmental assessment provided that agencies declaring an action exempt under this section shall obtain the advice of other outside agencies or individuals having jurisdiction or expertise as to the propriety of the exemption. Actions declared exempt from the preparation of an environmental assessment under this section are not exempt from complying with any other applicable statute or rule". The use of exemptions to Chapter 343, HRS and Section 404 (USACE) are inapplicable due to the fact that there are multiple CIP projects

Chapter 343, HRS is violated with respect to the "cumulative impacts" of planned successive actions...whereas, §11-200-8 Exempt classes of action (b) states that "All exemptions under the classes in this section are inapplicable when the cumulative impact of planned successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment".

(c) Petitioner is in disagreement with the applicant in that a modification of the fixture use indicates a planned use for which there has been no disclosure within this specific Permit Application. This includes the segmented planning of further, and multiple Capital Improvements Projects (CIP) by the Department of Land and Natural Resources, [State of Hawaii] Agribusiness Development Corporation (ADC), including the production of GMO crops that are damaging to the natural and human environment, [County of Kauai] CIP projects including the siting of a new Landfill at Ma'alo, KIUC and Free Flow Corporation - Federal Energy Regulatory Commission - Application for Preliminary Permits for Wailua River Hydroelectric Project, and Department of Hawaiian Homes planned usage of areas fronting Mauna Kapu (Kalepa).

§11-200-7 Multiple or phased applicant or agency actions. A group of actions proposed by an agency or an applicant shall be treated as a single action when:

- (1) The component actions are phases or increments of a larger total undertaking;
- (2) An individual project is a necessary precedent for a larger project;
- (3) An individual project represents a commitment to a larger project; or
- (4) The actions in question are essentially identical and a single statement will adequately address the impacts of each individual action and those of the group of actions as a whole.

Cumulative impacts are the incremental environmental archaeological and cultural impacts of the action when added to the past, present or reasonable foreseeable future actions. Haw. Admin. Rules § 11-200-2. It is clear that the BLNR is aware that this action is directly related to further CIP projects, including the proposed Wailua Hydroelectric Project, which would result in cumulative impacts through multiple incremental environmental, archaeological and cultural impacts

The actions of this Board will have a direct negative impact on those persons possessing vested birthright as aforementioned, under item #20 of this petition. The natural environment, and historic cultural, and religious properties, that are in this area as being adjoining are of living, cultural, political, religious significance that qualified adjoining lands, and complexes of historic site and features identified in the U.S. National Register of Historic Places (National Historic Landmark #66000297), WAILUA COMPLEX OF HEIAU, WAILUANUIAHOANO (GREAT AND SACRED WAILUA).

The National Historic Preservation Act is intended to preserve, not only historic places, but afford protection to those for whom those cultural and religious properties continue to be a meaningful part of their ongoing religious and cultural use. Under Hawaiian laws 1841-42, and the NHPA, lineal descendants and those with vested rights are entitled to experience, practice

and perpetuate, free from discrimination, and carry forth the new policy commitment of Governor Neil S. Abercrombie, in every aspect, support the advancement of the High Attributes of Hawaiian culture.

(d) Petitioner regards applicant's request as premature as a survey of the interrelationships of historic waterways, ancient and historic irrigation systems is incomplete. A management plan which encompasses precontact and historic uses, in a context of respecting, identifying specific areas of lineal descendant usages, and the interrelationship of historic and religious sites, that continues into modern day application and access by a wide and varying range of cultural practitioners, is necessary towards the protection, restoration and preservation of these sacred and important resources for generations to come.

(e) Petitioner is currently a lineal descendant participant in the ongoing consultations of Section 106 National Historic Preservation Act [NHPA] regarding various, and "unfortunately segmented projects" proposed as new transportation and utility corridors at Wailua, Kauai. At this time this process has not been carried out by FHWA Hawaii Division and SHPD Hawaii according to mandated procedures and authority. The applicant implied future use of the area of effect of the reservoir of the Kalepa area must be identified so as to prevent conflicts which may arise that would limit the application of due process of law and proper planning.

With respect to eligibility of particular religious and cultural properties within Mauna Kapu and Kalepa to the U.S. National Register of Historic Places, Kalepa ridge is identified as having religious significance to the whole of the sacred sites, important not only to Hawaii archipelago, but also throughout the Polynesian, respecting kinship and linguistic relations, and historic migrations within the bioregion of Polynesia. Historically, occupants in the Kalepa ridge area, including the clans of Chief Kawelo in which lineal descendancy can be verified to include this petitioner, and others; and which clan also identifies to the Wailua heiau, located on the ocean and mauka sides of Mahunapuone, as a named and revered area where many ancestors of preceeding generations are interred.

22. Any Relief Petitioner Seeks or Deems Itself Entitled to

Petitioner seeks relief, and, sees himself and others with equal footing and protection by law which includes the historical customary uses of the source waters leading the reservoir, and that prior to its construction, those waters fed an extensive system of agriculture which was and can be in these modern times a necessary component of securing food sources and helping our indigenous population, as well as the general public, to become less dependent on imported food staples, and most importantly to provide a focus and an outlet for the Hawaiians and public at large.

That the BLNR:

- (a) Reject the approval of the application, or
- (b) Grant petitioner requested contested case hearing,

Petitioner also seeks that a comprehensive management plan is required for this application, in addition to an Environmental Impact Statement.

Petitioner seeks that an Environmental Impact Statement according to the National Historic Preservation Act, and in regards to the cumulative impacts to proposed CIP projects planned for Kalepa, Maalo, Wailua and Hanamaulu, which is directly related to the application for alterations and removal of Hanamaulu No. 21 Reservoir. A full EIS is required involving "unique characteristics of the geographic area such as the proximity to historic or cultural resources...or ecologically critical areas," id. § 1508.27(b)(1), "The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principles about a future consideration," id. § 1508.27(b)(6); "Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable

to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts," id. § 1508.27(b)(7); and "Whether the action threatens a violation of ,....requirements imposed for the protection of the environment, id. § 1508.27(b)(1).

Petitioner also seeks a Traditional Cultural Survey according the National Historic Preservation Act for the areas affected by this application, and additional segmented CIP projects, some of which involve Federal funding and/or Federal activities or regulations for use of these lands, that hold a tremendous significance to lineal descendants, cultural practitioners and the Hawaiian community.

Petitioner supports the determination of the board which are in keeping with the obligations of the United States to its signatory responsibilities in the International Covenant on civil and Political Rights (ICCPR) and the International Convention on the Elimination of all Forms of Discrimination (CERD) re: U.S. Department of State (UNCLASSIFIED) Memorandum, January 20, 2010, Subject: Human Rights Treaty Reports, as these International Instruments can assist this board in its moral and fiduciary responsibility to protect as well as foster those vested birthrights of the lineal descendants of the original inhabitants who have occupied this archipelago since time immemorial.

23. How Petitioner's Participation in the Proceeding Would Serve the Public Interest

The public interest will certainly be served in all regards, so as to promote mutual respect and amity accorded under the US constitution, Article IV, Section 2 "...Treaties...not withstanding...". Under Hawaiian Laws, 1841-1842, and through various International (other) instruments and treaties designed to advance the cooperation for peaceful and productive relations for all peoples of all ethnicities, racial distinction, religious preference and political affiliation. We are many people upon one earth.

Further regards to the Public Interest is this opportunity to openly engage in designing the future uses of the natural resources, as such planning may help to assist and warrant investments of human services, as well as advancing into clean technological renewable resources to serve and promote individual enrichment, and collective enhancement of historic preservation and implementation of the best land management resource practices available from diverse cultures and available technologies.

Article XI, Sections 1 and 7, Hawaii Constitution recognizes that natural and water resources are of the Public Trust; the State is required to protect all water resources, and water quality for the benefit of the people of Hawaii.

The petitioners participation in the proceeding would serve the public interest in regards to the protection of Public Trust resources, namely the appropriate use of lands and waters of Wailua, Kalepa and Wailua. Agricultural diversity void of the destructive GMO technology which threatens the ecosystems, as well as further degradation of the water table and surface water through a proposed landfill, and other destructive CIP projects, would serve to properly address the Public Interest, as well as Interests of lineal descendants of Wailua, Kalepa and Hanamaulu.

24. Any Other Information That May Assist the Board in Determining Whether Petitioner Meets the Criteria to Be a Party under Section 13-1-31, HAR

Consolidation and/or facilitating additional parties, contested cases will be honored and supported by Participant for this and/or additional contested cases involving lands, waters and natural resources of Wailuanuiahoano, Kalepa, Mauna Kapu, Maalo and Hanamaulu, Kauai.

☐ Check this box if Petitioner is submitting supporting documents with this form.

☒ Check this box if Petitioner will submit additional supporting documents after filing this form.

Likookalani Martin

Petitioner or Representative (Print Name)

LM
Signature

June 6, 2011

Date